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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,802	05/11/2001	Jeffrey A. Ruschke	8266-0592	7034

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EXAMINER	
LUBY, MATTHEW D	
ART UNIT	**PAPER NUMBER**
3611	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/853,802	RUSCHKE ET AL.	
	Examiner	Art Unit	
	Matt Luby	3611	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-43* is/are pending in the application.

4a) Of the above claim(s) *23-25,27 and 28* is/are withdrawn from consideration.

5)☒ Claim(s) *11,30-33,44 and 45* is/are allowed.

6)☒ Claim(s) *8-10, 12-22, 26, 29 and 34-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 21, 22, 26 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent Abstract 08-317953, hereafter '953.

'953 disclose a propulsion system "configured" to move a patient support having a bed frame and a mattress, the propulsion system comprising: a propulsion device (Figures 24-28) "configured" to contact the floor to power movement of the patient support, a coupler configured to move between a coupled position coupling the propulsion device to the bed frame and an uncoupled position permitting movement of the propulsion device away from the bed frame (Figures 25-28), a vertically extending handler coupled to the coupler (Figures 26 & 28) and configured to move the coupler between the coupled and uncoupled positions, wherein the handle includes a handle portion positioned at a sufficient height above the floor to facilitate grasping of the handle portion by user to move the propulsion system about a care facility (Figures 26 & 28), wherein the coupler is hook shaped (Figure 25) and further comprising a plurality of wheels (Figure 26) configured to permit a user pushing on the handle to roll the propulsion system from one patient support to another (Figures 26 & 28); wherein the

handle is substantially perpendicular to a longitudinal axis of the bedframe when the coupler is in the coupled position (Figure 25 shows that the handle, 69, that, in the coupled position depicted in Figure 25, is perpendicular to the longitudinal axis of the bedframe).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 8-9, 12-15 and 34-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over German Patent 1,041,210, hereafter '210, in view of Kiebooms et al. (U.S. Pat. No. 5,5580,207).

All of Applicants' positively claimed limitations are clearly shown in the Figures of '210 except that the propulsion device has a pair of secondary wheels. Kiebooms et al. disclose that it is well know for a propulsion device that powers movement of a patient support to have both drive wheels (40) and secondary wheels (48) to provide support to the frame of the propulsion device (since wheels, 48, are called support wheels at lines 21-22 of col. 3, they provide the benefit of what support wheels do, namely, providing support to the frame that they are attached to). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a pair of secondary wheels

on the propulsion device of '210, as taught by Keibooms et al., in order to provide support to the frame of the propulsion device.

5. Claims 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Abstract 08-317953, hereafter '953, in view of Kiebooms et al.

'953 disclose a propulsion system "configured" to move a patient support having a patient restraint board, the propulsion system comprising: a propulsion device (Figures 24-28) "configured" to contact the floor to power movement of the patient support, a coupler "adapted" to couple the propulsion device to the patient support, the coupler being "adapted" to be coupled to the patient restraint board (Figure 28), wherein the coupler is "adapted" to couple to a base frame of the patient support (Figure 28) wherein the propulsion device includes a frame (Figures 26 & 28), a vertically extending handle (Figures 26 & 28), and the coupler includes a first member (72) "adapted" to be coupled to the patient restraint board and the vertically extending handle (Figures 26 & 28), wherein the vertically extending handle extends from the frame of the propulsion device to a height above the patient restraint board (Figure 26), and the coupler is "adapted" to couple to a top edge of the patient restraint board (Figure 28). '953 is silent as to the propulsion device having a pair of secondary wheels. Kiebooms et al. disclose that it is well know for a propulsion device that powers movement of a patient support to have both drive wheels (40) and secondary wheels (48) to provide support to the frame of the propulsion device (since wheels, 48, are called support wheels at lines 21-22 of col. 3, they provide the benefit of what support wheels do, namely, providing support to the frame that they are attached to). It would have been obvious to one of

ordinary skill in the art at the time of the invention to provide a pair of secondary wheels on the propulsion device of '953, as taught by Keibooms et al., in order to provide support to the frame of the propulsion device.

6. Claims 8-9, 12-15 and 34-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over '210 in view of '953 and Kiebooms et al.

'210 disclose all of the claimed limitations (as stated in the 102(b) rejection above) except that the propulsion device has a pair of secondary wheels and that the propulsion device includes a motor coupled to the drive wheel. '953 disclose that a wheel of a propulsion system is motorized (25a & 25b are powered by 30a & 30b) in order to provide propulsion assistance to a human operator (an inherently recognizable benefit of motorized propulsion systems). Kiebooms et al. disclose that it is well know for a propulsion device that powers movement of a patient support to have both drive wheels (40) and secondary wheels (48) to provide support to the frame of the propulsion device (since wheels, 48, are called support wheels at lines 21-22 of col. 3, they provide the benefit of what support wheels do, namely, providing support to the frame that they are attached to). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the wheel of '210 is motorized, as taught by '953, in order to provide propulsion assistance to a human operator.
and to provide a pair of secondary wheels on the propulsion device of '210, as taught by Kiebooms et al., in order to provide support to the frame of the propulsion device.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over '210 in view of '953 and Kiebooms et al.

15. '210 disclose that the propulsion system including a vertically extending handle (15), wherein the propulsion system includes a frame (1, 4, 3, 5) and a wheel (2) coupled to the frame, the vertically extending handle being coupled to the frame (Figure 2) and the second member (10) is coupled to the vertically extending handle (Figure 2). '210 do not specifically disclose that the wheel is motorized or a pair of secondary wheels. '953 disclose that a wheel of a propulsion system is motorized (25a & 25b are powered by 30a & 30b) in order to provide propulsion assistance to a human operator (an inherently recognizable benefit of motorized propulsion systems). Kiebooms et al. disclose that it is well know for a propulsion device that powers movement of a patient support to have both drive wheels (40) and secondary wheels (48) to provide support to the frame of the propulsion device (since wheels, 48, are called support wheels at lines 21-22 of col. 3, they provide the benefit of what support wheels do, namely, providing support to the frame that they are attached to). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the wheel of '210 is motorized, as taught by '953, in order to provide propulsion assistance to a human operator, and to provide a pair of secondary wheels on the propulsion device of '210, as taught by Kiebooms et al., in order to provide support to the frame of the propulsion device.

Allowable Subject Matter

8. Claims 11, 30-33, 44 and 45 are allowed. The prior art fails to disclose a propulsion system including a vertically extending handle that is coupled to the frame

and wherein a second member is slidably coupled to the vertically extending handle along with the rest of the recited limitations of claim 11. The prior art does not disclose a method of coupling a propulsion system to a patient support including the step of providing relative movement between the coupler and the patient restraint board such that the coupler and the perimetrical portion of the patient restraint board are coupled.

Response to Arguments

9. Applicant's arguments with respect to claims 8-22, 26, 29 and 34-43 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed 11/26/04 have been fully considered but they are not persuasive.

Applicant argues on page 10 of the remarks that the handle of '953 (shown in Figures 24-28) is not perpendicular to the longitudinal axis of the bedframe. Handle, 69, is perpendicular to the longitudinal axis of the bedframe shown in Figure 25.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (703) 305-0441. The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Matt Luby
Examiner
Art Unit 3611

M.I.
December 9, 2004